

# Michigan Register

Issue No. 18 – 2019 (Published October 15, 2019)



## GRAPHIC IMAGES IN THE MICHIGAN REGISTER

### COVER DRAWING

#### *Michigan State Capitol:*

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

### PAGE GRAPHICS

#### *Capitol Dome:*

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19<sup>th</sup> century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

#### *East Elevation of the Michigan State Capitol:*

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

# Michigan Register

Published pursuant to § 24.208 of  
The Michigan Compiled Laws



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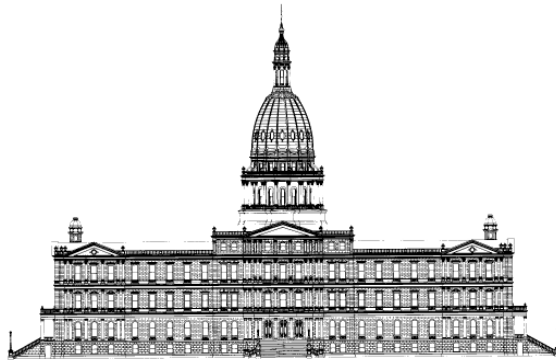
(This issue, published October 15, 2019, contains  
documents filed from September 15, 2019 to October 1, 2019)

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**Gretchen Whitmer, Governor**



**Garlin Gilchrist, Lieutenant Governor**

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## PREFACE

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### PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Office of Regulatory Reform publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

**24.208 Michigan register; publication; cumulative index; contents; public subscription; fee; synopsis of proposed rule or guideline; transmitting copies to office of regulatory reform.**

Sec. 8.

(1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
- (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
- (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
- (d) Proposed administrative rules.
- (e) Notices of public hearings on proposed administrative rules.
- (f) Administrative rules filed with the secretary of state.
- (g) Emergency rules filed with the secretary of state.
- (h) Notice of proposed and adopted agency guidelines.
- (i) Other official information considered necessary or appropriate by the office of regulatory reform.
- (j) Attorney general opinions.
- (k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.

(2) The office of regulatory reform shall publish a cumulative index for the Michigan register.

(3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.

(4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.

(5) An agency shall electronically transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

**4.1203 Michigan register fund; creation; administration; expenditures; disposition of money received from sale of Michigan register and amounts paid by state agencies; use of fund; price of Michigan register; availability of text on internet; copyright or other proprietary interest; fee prohibited; definition.**

Sec. 203.

- (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.
- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs of preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of the Michigan register at a price determined by the office of regulatory reform not to exceed the cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

**CITATION TO THE MICHIGAN REGISTER**

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

**CLOSING DATES AND PUBLICATION SCHEDULE**

The deadlines for submitting documents to the Michigan Office of Administrative Hearings and Rules for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Michigan Office of Administrative Hearings and Rules is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Michigan Office of Administrative Hearings and Rules, Ottawa Building – Second Floor, 611 W. Ottawa, Lansing, MI 48909

### **RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE**

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

### **SUBSCRIPTIONS AND DISTRIBUTION**

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$400.00 per year. Submit subscription requests to: Michigan Office of Administrative Hearings and Rules, Ottawa Building – Second Floor, 611 W. Ottawa, Lansing, MI 48909. Checks Payable: State of Michigan. Any questions should be directed to the Michigan Office of Administrative Hearings and Rules (517) 335-8658.

### **INTERNET ACCESS**

The *Michigan Register* can be viewed free of charge on the Internet web site of the Michigan Office of Administrative Hearings and Rules: [www.michigan.gov/lara/0,4601,7-154-89334\\_10576\\_92306---,00.html](http://www.michigan.gov/lara/0,4601,7-154-89334_10576_92306---,00.html).

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Michigan Office of Administrative Hearings and Rules Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.



## 2019 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2019	February 1, 2019
2	February 1, 2019	February 15, 2019
3	February 15, 2019	March 1, 2019
4	March 1, 2019	March 15, 2019
5	March 15, 2019	April 1, 2019
6	April 1, 2019	April 15, 2019
7	April 15, 2019	May 1, 2019
8	May 1, 2019	May 15, 2019
9	May 15, 2019	June 1, 2019
10	June 1, 2019	June 15, 2019
11	June 15, 2019	July 1, 2019
12	July 1, 2019	July 15, 2019
13	July 15, 2019	August 1, 2019
14	August 1, 2019	August 15, 2019
15	August 15, 2019	September 1, 2019
16	September 1, 2019	September 15, 2019
17	September 15, 2019	October 1, 2019
18	October 1, 2019	October 15, 2019
19	October 15, 2019	November 1, 2019
20	November 1, 2019	November 15, 2019
21	November 15, 2019	December 1, 2019
22	December 1, 2019	December 15, 2019
23	December 15, 2019	January 1, 2020
24	January 1, 2020	January 15, 2020

# CONTENTS

---

## ADMINISTRATIVE RULES FILED WITH SECRETARY OF STATE

---

### Labor and Economic Opportunity

MIOSHA (2019-036)

Part 11. Recording and Reporting of Occupational Injuries and Illnesses .....2-3

---

## CERTIFICATION OF NEED REVIEW STANDARDS

---

### Department of Health and Human Services

Certificate of Need Review Standards Synopsis for Publication in the Michigan Register for

Open Heart Surgery (OHS) Services .....5-5

---

## EMERGENCY RULES

---

### Department of Health and Human Services

Population Health and Community Services

Protection of Youth from Nicotine Product Addiction.....7-10

---

## MICHIGAN ADMINISTRATIVE CODE TABLE

---

Table (2019 Session).....12-18

---

## CUMULATIVE INDEX

---

Cumulative Index (2019) .....19-23

---

## BILLS SIGNED INTO LAW OR VETOED

---

Appendix Table 1 (2019 Session) (Legislative Service Bureau Pages (1-5)).....24-24

---

**ADMINISTRATIVE RULES  
FILED WITH THE SECRETARY OF STATE**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(f) Administrative rules filed with the secretary of state.”*

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**ADMINISTRATIVE RULES**

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**DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY**

**DIRECTOR'S OFFICE**

**MIOSHA SAFETY AND HEALTH STANDARD**

Filed with the secretary of state on September 12, 2019

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the department of labor and economic opportunity by section 69 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1069, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998)

R 408.22141 and R 408.22141a of the Michigan Administrative Code are amended as follows:

**PART 11. RECORDING AND REPORTING OF OCCUPATIONAL INJURIES AND ILLNESSES**

R 408.22141 Basic requirement.

Rule 1141. (1) Annual electronic submission of MIOSHA or OSHA Form 300A “Summary of Work-Related Injuries and Illnesses” by establishments with 250 or more employees requires all of the following:

(a) If your establishment had 250 or more employees at any time during the previous calendar year, and this standard requires your establishment to keep records, then you must electronically submit information from MIOSHA or OSHA Form 300A “Summary of Work-Related Injuries and Illnesses” to OSHA or OSHA's designee.

(b) You must submit the information once a year, no later than the date listed in R 408.22141b of the year after the calendar year covered by the form (for example, 2019 for the 2018 form).

(2) Annual electronic submission of MIOSHA or OSHA Form 300A “Summary of Work-Related Injuries and Illnesses” by establishments with 20 or more employees but fewer than 250 employees in designated industries requires all of the following:

(a) If your establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and your establishment is classified in an industry listed in Appendix B, then you must electronically submit information from MIOSHA/OSHA Form 300A “Summary of Work-Related Injuries and Illnesses” to OSHA or OSHA's designee.

(b) You must submit the information once a year, no later than the date listed in R 408.22141b of the year after the calendar year covered by the form.

(3) Electronic submission of records upon notification. Upon notification, you must electronically submit the requested information from your records to OSHA or OSHA's designee.

(4) Electronic submission of the Employer Identification Number (EIN). For each establishment that is subject to these reporting requirements, you must provide the EIN used by the establishment.

R 408.22141a Implementation.

Rule 1141a. (1) Does every employer have to routinely submit this information to OSHA? No, only 2 categories of employers must routinely submit information. First, if your establishment had 250 or more employees at any time during the previous calendar year, and this standard requires your establishment to keep records, then you must submit the required information to OSHA once a year. Second, if your establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and your establishment is classified in an industry listed in Appendix B, then you must submit the required information to OSHA once a year. Employers in these 2 categories must submit the required information by the date listed in R 408.22141b of the year after the calendar year covered by the form or forms (for example, 2019 for the 2018 form). If you are not in either of these 2 categories, then you must submit the information to OSHA only if MIOSHA or OSHA notifies you to do so for an individual data collection.

(2) Do part-time, seasonal, or temporary workers count as employees in the criteria for number of employees in R 408.22141? Yes, each individual employed in the establishment at any time during the calendar year counts as 1 employee, including full-time, part-time, seasonal, and temporary workers.

(3) How will MIOSHA or OSHA notify me that I must submit information as part of an individual data collection under R 408.22141(3)? MIOSHA or OSHA will notify you by mail if you will have to submit information as part of an individual data collection under R 408.22141(3). MIOSHA or OSHA will also announce individual data collections through publication in the Federal Register and the OSHA newsletter, and announcements on the OSHA website or other means. If you are an employer who must routinely submit the information, then OSHA will not notify you about your routine submittal.

(4) When do I have to submit the information? If you are required to submit information under R 408.22141(1) or (2), then you must submit the information once a year, by the date listed in R 408.22141b of the year after the calendar year covered by the form (for example, 2019 for the 2018 form). If you are submitting information because MIOSHA or OSHA notified you to submit information as part of an individual data collection under R 408.22141(3), then you must submit the information as specified in the notification.

(5) How do I submit the information? You must submit the information electronically. OSHA will provide a secure website for the electronic submission of information. For individual data collections under R 408.22141(3), OSHA will include the website's location in the notification for the data collection.

(6) Am I required to submit information if my establishment is partially exempt from keeping OSHA injury and illness records? If you are partially exempt from keeping injury and illness records under R 408.22103, then you are not required to routinely submit information under R 408.22141(1) or (2). You will have to submit information under R 408.22141(3) if OSHA informs you in writing that it will collect injury and illness information from you. If you receive such a notification, then you must keep the injury and illness records required by this standard and submit information as directed.

(7) Am I required to submit information if I am located in a State Plan State? Yes, the requirements apply to employers located in State Plan States.

(8) May an enterprise or corporate office electronically submit information for its establishment or establishments? Yes, if your enterprise or corporate office had ownership of or control over 1 or more establishments required to submit information under R 408.22141(1) or (2), then the enterprise or corporate office may collect and electronically submit the information for the establishment or establishments.

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**CERTIFICATE OF NEED  
REVIEW STANDARDS**

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*MCL 24.208 states in part:*

*Sec. 8. The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\* \* \*

*(k) All of the items in section 7(l) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.2217.*

*MCL 24.207 states in part:*

*Sec. 7. “Rule” means an agency regulation, statement, standard, policy, ruling, or instruction of general applicability that implements or applies law enforced or administered by the agency, or that prescribes the organization, procedure, or practice of the agency, including the amendment, suspension, or rescission of the law enforced or administered by the agency. Rule does not include any of the following:*

\* \* \*

*(l) All of the following, after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217:*

- (i) The designation, deletion, or revision of covered medical equipment and covered clinical services.*
- (ii) Certificate of need review standards*
- (iii) Data reporting requirements and criteria for determining health facility viability.*
- (iv) Standards used by the department of community health in designating a regional certificate of need review agency.*
- (v) The modification of the 100 licensed bed limitation for short-term nursing care programs set forth in section 22210 of the public health code, 1978 PA 368, MCL 333.22210.*

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**CERTIFICATE OF NEED REVIEW STANDARDS**

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**CERTIFICATE OF NEED (CON) REVIEW STANDARDS  
SYNOPSIS FOR PUBLICATION IN THE MICHIGAN REGISTER  
PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT, 1969 PA 306, MCL  
24.208(1)(k)**

**OPEN HEART SURGERY (OHS) SERVICES  
Effective 10/1/19**

The language changes include the following:

1. Amended Appendices A and B.

**Complete Standards**

A complete set of the approved language can be found at [http://www.michigan.gov/mdhhs/0,5885,7-339-71551\\_2945\\_5106-25558--,00.html](http://www.michigan.gov/mdhhs/0,5885,7-339-71551_2945_5106-25558--,00.html). A hard copy may be obtained, for a fee, by sending a written request to:

Michigan Department of Health and Human Services  
Policy and Planning  
Office of Planning  
P.O. Box 30195  
Lansing, MI 48909  
(517) 335-6708

Email address: MDHHS-ConWebTeam@michigan.gov

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**EMERGENCY RULES**

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*MCL 24.248 states:*

*“Sec. 48. (1) If an agency finds that preservation of the public health, safety, or welfare requires promulgation of an emergency rule without following the notice and participation procedures required by sections 41 and 42 and states in the rule the agency's reasons for that finding, and the governor concurs in the finding of emergency, the agency may dispense with all or part of the procedures and file in the office of the secretary of state the copies prescribed by section 46 indorsed as an emergency rule, to 3 of which copies shall be attached the certificates prescribed by section 45 and the governor's certificate concurring in the finding of emergency. The emergency rule is effective on filing and remains in effect until a date fixed in the rule or 6 months after the date of its filing, whichever is earlier. The rule may be extended once for not more than 6 months by the filing of a governor's certificate of the need for the extension with the office of the secretary of state before expiration of the emergency rule. An emergency rule shall not be numbered and shall not be compiled in the Michigan Administrative Code, but shall be noted in the annual supplement to the code. The emergency rule shall be published in the Michigan register pursuant to section 8.*

*(2) If the agency desires to promulgate an identical or similar rule with an effectiveness beyond the final effective date of an emergency rule, the agency shall comply with the procedures prescribed by this act for the processing of a rule which is not an emergency rule. The rule shall be published in the Michigan register and in the code.”*



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**EMERGENCY RULES**

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
BUREAU OF HEALTH AND WELLNESS, PUBLIC HEALTH ADMINISTRATION  
PROTECTION OF YOUTH FROM NICOTINE PRODUCT ADDICTION  
EMERGENCY RULES**

Filed with the Secretary of State on

These rules take effect upon filing with the Secretary of State and shall remain in effect for 6 months.

By authority conferred on the Department of Health and Human Services by the sections 2221, 2226, and 2233 of the public health code, 1978 PA 368, MCL 333.2221, 333.2226, and 333.2233, Executive Reorganization Order No. 2015-1, MCL 400.227, and section 48 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.248.

**FINDING OF EMERGENCY**

For the reasons below, the Michigan Department of Health and Human Services finds that the State of Michigan faces a vaping crisis among youth and recommends the promulgation of emergency rules to address this crisis.

Since 2014, e-cigarettes (also known as vapor products) have been the most commonly used tobacco product among youth in the U.S.<sup>1</sup> Nationwide, e-cigarette use among middle and high school students increased 900% from 2011-2015.<sup>2</sup> From 2017 to 2018, e-cigarette use among youth increased 78% among high school students and 48% among middle school students.<sup>3</sup> The total number of children who are currently using e-cigarettes rose to an astonishing 3.6 million in 2018, 1.5 million more than the previous year alone.<sup>4</sup> From the years 2015-2016 and 2017-2018, counties across Michigan (cross section of 39 reporting) witnessed between a 30% and 118% increase in use among high school students who used an e-cigarette during the past month.<sup>5</sup>

E-cigarettes use an e-liquid that may contain nicotine, in addition to a combination of flavoring, propylene glycol, vegetable glycerin, and other ingredients.<sup>6</sup> They may also contain toxic chemicals

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<sup>1</sup> U.S. Surgeon General's Advisory on E-Cigarette Use among Youth, available at <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>

<sup>2</sup> Surgeon General's Advisory see footnote 1; citing Wang TW, Gentzke A, Sharapova S, et al. Tobacco Use Among Middle and High School Students – United States, 2011-2017. MMWR Morbidity and Mortality Weekly Report. 2018;67(22):629-633.

<sup>3</sup> See <https://www.fda.gov/tobacco-products/youth-and-tobacco/2018-nyts-data-startling-rise-youth-e-cigarette-use> citing the most recent National Youth Tobacco Survey (NYTS) data.

<sup>4</sup> See Footnote 3.

<sup>5</sup> Michigan Profile for Healthy Youth Survey by MDE & MDHHS, 39 County Data from 2015-2016 and 2017-2018 for e-cigarette usage among high schoolers.

<sup>6</sup> <https://www.fda.gov/tobacco-products/products-ingredients-components/vaporizers-e-cigarettes-and-other-electronic-nicotine-delivery-systems-ends#references>

such as formaldehyde, acrolein, acrylonitrile, propylene oxide, crotonaldehyde and acetaldehyde (also found in cigarette smoke), as well as metal particles such as nickel, lead, and chromium, which can be inhaled into the lungs.<sup>1</sup>

The nicotine in e-cigarettes can rewire the brain to crave more of the substance and create a nicotine addiction. Resulting brain changes may have long-lasting effects on attention, learning, and memory.<sup>2</sup> Research has also shown that youth who use e-cigarettes are significantly more likely to start smoking combustible cigarettes despite the well-known, documented, and often deadly health consequences such as lung cancer and heart disease.<sup>3</sup>

In December of 2018, the United States Surgeon General Jerome Adams officially declared e-cigarette use among youth in the United States an epidemic.<sup>4</sup> Dr. Adams issued an advisory on e-cigarette use among youth, noting that action must be promptly taken to protect the health of young people.<sup>5</sup> Dr. Adams was joined by the Secretary of the U.S. Department of Health & Human Services, Alex Azar, who called the historic increase in e-cigarette use by youth, which has outpaced any other substance, an “unprecedented challenge.”<sup>6</sup>

According to a recent study, 81% of youth e-cigarette users reported using a flavored e-cigarette at first use.<sup>7</sup> This study concluded that flavored tobacco products may attract young users and serve as “starter products to regular tobacco use.” Another study revealed that nearly two thirds (63.6%) of current middle and high school tobacco users have used a flavored tobacco product in the past month.<sup>8</sup> This epidemic can therefore be attributed in large part to the appeal of flavored vapor products to youth as well as the advertising and promotional activities by companies that glamorize use of nicotine products nationwide.

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<sup>1</sup> <https://www.fda.gov/tobacco-products/ctp-newsroom/think-e-cigs-cant-harm-teens-health>

<sup>2</sup> See footnote 6, referencing Abreu-Villaca. Y., Seidler, F. J., Tate, C. A., & Slotkin, T.A. (2003). Nicotine is a neurotoxin in the adolescent brain: critical periods, patterns of exposure, regional selectivity, and dose thresholds for macromolecular alterations. *Brain Res*, 979 (1-2), 114-128.

<sup>3</sup> <https://www.fda.gov/tobacco-products/ctp-newsroom/think-e-cigs-cant-harm-teens-health>; referencing Berry KM, Fetterman JL, Benjamin EJ, Bhatnager A, Barrington-Trimis JL, Leventhal AM, Stokes A. Association of Electronic Cigarette Use with Subsequent Initiation of Tobacco Cigarettes in U.S. Youths. *JAMA Netw Open*. 2019;2(2)e187794. Doi: 10.1001/jamanetworkopen.2018.8894. .

<sup>4</sup> <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>

<sup>5</sup> Id.

<sup>6</sup> <https://www.hhs.gov/about/leadership/secretary/speeches/2018-speeches/remarks-for-e-cigarette-press-conference.html>

<sup>7</sup> Villanti AC, Johnson AL, Ambrose BK, et al. Flavored Tobacco Product Use in Youth and Adults: Findings from the First Wave of the PATH Study (2013-2014). *Am J Prev Med*. 2017;53(2):139–151. doi:10.1016/j.amepre.2017.01.026. <https://www.ncbi.nlm.nih.gov/pubmed/28318902>.

<sup>8</sup> Dai H. Changes in Flavored Tobacco Product Use Among Current Youth Tobacco Users in the United States, 2014-2017. *JAMA Pediatr*. Published online January 07, 2019173(3):282–284. doi:10.1001/jamapediatrics.2018.4595.

Rule 1. (1) As used in these rules:

(a) “Characterizing flavor” means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product, vapor product, or alternative nicotine product, or any byproduct produced thereof. This includes, but is not limited to, tastes or aromas relating to food or drink of any sort; menthol; mint; wintergreen; fruit; chocolate; vanilla; honey; candy; cocoa; dessert; alcoholic beverages; herbs; or spices.

(b) “Flavored vapor product” means any vapor product that imparts a characterizing flavor.

(c) “Flavored nicotine vapor product” means any vapor product that contains nicotine and imparts a characterizing flavor.

(d) “Retailer” means any person or entity that operates a business engaging in the sale of tobacco products or vapor products.

(e) “Reseller” means any person who purchases tobacco products or vapor products and intends to distribute such product(s) for resale in the State of Michigan.

(2) The terms defined in the youth tobacco act, 1915 PA 31, MCL 722.641 to 722.645, have the same meaning when used in these rules.

Rule 2. (1) Beginning 14 days after these rules are filed with the secretary of state, a retailer or reseller shall not:

(a) Sell, offer for sale, give, transport, or otherwise distribute, nor possess with intent to sell, give, or otherwise distribute a flavored nicotine vapor product.

(b) Use imagery explicitly or implicitly representing a characterizing flavor to sell, offer for sale, give, or otherwise distribute a vapor product.

(2) Beginning 14 days after these rules are filed with the secretary of state, a person shall not transport flavored nicotine vapor products intended for delivery to any retailer or reseller in violation of these rules.

Rule 3. (1) Beginning 14 days after these rules are filed with the secretary of state, a retailer or reseller shall not use, either directly or indirectly, fraudulent or misleading terms or statements to sell, offer for sale, give, or otherwise distribute vapor products.

(2) As used in this rule, “fraudulent or misleading terms or statements” include those that are likely to induce false or unevicenced beliefs regarding the properties of the vapor products in a substantial portion of the audience. Fraudulent or misleading terms include, but are not limited to, “clean;” “safe;” “harmless;” and “healthy.”

(3) This rule does not apply to products for which advertising is exclusively regulated by the Food and Drug Administration.

Rule 4. Beginning 14 days after these rules are filed with the secretary of state, the restrictions on advertising set forth at 21 CFR 1140.32 apply with equal force to vapor products. Violations of 21 CFR 1140.32 are violations of this rule.

Rule 5. These rules apply with equal force to retailers and resellers utilizing online and other remote sales methods that are intended to deliver flavored nicotine vapor products to this state.

Rule 6. (1) Beginning 14 days after these rules are filed with the secretary of state, advertisements for vapor products shall not be placed:

(a) Within 25 feet of the point of sale. Where this cannot be achieved, advertisements must be placed at the greatest possible distance from the point of sale.

(b) Within 25 feet of candy, foodstuff, or soft drinks. Where this cannot be achieved, advertisements must be placed at the greatest possible distance from candy, foodstuff, and soft drinks.

(c) In such a manner that the advertisement can be readily seen by a person standing outside of the building at a distance of 25 feet.

Rule 7. (1) A person who violates any provision of these rules is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, or a fine of not more than \$200, or both, as set forth by section 2261 of the public health code, 1978 PA 368, MCL 333.2261.

(2) Violations of rule 2 are calculated on a per-item and per-transaction basis and may be punished cumulatively.

(3) Violations of rules 3, 4, and 6 are calculated daily, with each 24-hour period during which the violation occurs constituting a separate violation.

Rule 8. If any rule or subrule of these rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.

#### MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES

---

Robert Gordon  
Director

Date:

Pursuant to Section 48(1) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.248(1), I hereby concur in the finding of the Department of Health and Human Services that circumstances creating an emergency have occurred and the public interest requires the promulgation of the above rules.

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Honorable Gretchen Whitmer  
Governor

Date:

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**MICHIGAN ADMINISTRATIVE CODE TABLE**  
**(2019 SESSION)**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*“(2) The office of regulatory reform shall publish a cumulative index for the Michigan register.”*

*The following table cites administrative rules promulgated during the year 2019, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).*

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**MICHIGAN ADMINISTRATIVE CODE TABLE  
(2019 RULE FILINGS)**

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R Number	Action	2019 MR Issue	R Number	Action	2019 MR Issue	R Number	Action	2019 MR Issue
Rule 1	E	8	207.8	R	4	336.2802	*	1
Rule 2	E	8	207.9	R	4	336.2807	*	1
Rule 3	E	8	207.10	R	4	336.2809	*	1
Rule 4	E	8	207.11	R	4	336.2810	*	1
32.71	*	1	207.13	R	4	336.2813	*	1
32.72	*	1	207.14	R	4	336.2816	*	1
32.73	*	1	299.2651	R	5	336.2823	*	1
32.74	*	1	299.2652	R	5	336.2901	*	1
32.75	*	1	299.2653	R	5	336.2901a	R	1
32.76	*	1	299.2654	R	5	336.2902	*	1
32.77	*	1	299.2655	R	5	336.2907	*	1
32.78	*	1	299.2656	R	5	336.2908	*	1
32.79	*	1	299.2657	R	5	338.1	*	1
32.80	R	1	299.2658	R	5	338.1a	*	1
32.81	R	1	299.2659	R	5	338.2	*	1
32.82	*	1	299.2660	R	5	338.3	*	1
32.83	*	1	299.2661	R	5	338.5	*	1
32.84	*	1	299.2662	R	5	338.6	*	1
32.85	*	1	299.2663	R	5	338.8	*	1
32.86	*	1	299.2664	R	5	338.9	*	1
32.87	*	1	299.2665	R	5	338.10	*	1
32.88	*	1	299.2666	R	5	338.11	*	1
32.89	*	1	299.4021	*	1	338.12	*	1
51.201	*	1	299.4022	*	1	338.701	*	1
54.202	R	1	299.4023	*	1	338.704	R	1
54.204	R	1	299.4024	*	1	338.705	R	1
54.205	*	1	299.4025	*	1	338.707	R	1
54.206	*	1	299.4026	*	1	338.709	R	1
54.207	R	1	299.4027	*	1	338.711	R	1
54.208	*	1	336.1212	*	1	338.713	R	1
54.209	*	1	336.1224	*	1	338.715	R	1
54.210	R	1	336.1226	*	1	338.717	R	1
54.211	R	1	336.1285	*	1	338.719	R	1
54.212	R	1	336.1902	*	1	338.722	A	1
207.1	R	4	336.1971	*	1	338.723	R	1
207.2	R	4	336.1973	*	1	338.724	A	1
207.3	R	4	336.1974	A	1	338.726	A	1
207.4	R	4	336.2801	*	1	338.727	R	1
207.7	R	4	336.2801a	R	1	338.731	R	1

(\* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

R Number	Action	2019 MR Issue	R Number	Action	2019 MR Issue	R Number	Action	2019 MR Issue
338.732	A	1	338.2939	*	1	338.5218	R	1
338.733	R	1	338.2941	*	1	338.5230	*	1
338.734	A	1	338.2943	*	1	338.5240	R	1
338.735	A	1	338.2945	*	1	338.5255	*	1
338.736	A	1	338.2947	*	1	338.6101	*	9
338.737	A	1	338.2949	*	1	338.6103	*	9
338.738	A	1	338.2951	*	1	338.6201	*	9
338.739	A	1	338.2953	*	1	338.6301	*	9
338.741	A	1	338.2955	*	1	338.6305	*	9
338.751	A	1	338.2957	*	1	338.6308	*	9
338.752	A	1	338.2961	*	1	338.6309	R	9
338.1551	*	1	338.2963	*	1	338.6311	*	9
338.1555	R	1	338.2965	*	1	338.7005	R	1
338.1560	*	1	338.3125	*	1	338.7201	*	9
338.1564	*	1	338.3135	A	1	338.7202	*	9
338.1565	A	1	338.3161a	A	1	338.7203	*	9
338.1801	A	1	338.4902	*	1	338.7205	*	9
338.1821	A	1	338.4903	*	1	338.7207	*	9
338.1823	A	1	338.4906	*	1	338.7209	*	9
338.1825	A	1	338.4908	*	1	338.7211	*	9
338.1827	A	1	338.4914a	*	1	338.7213	*	9
338.1831	A	1	338.4915	*	1	338.7215	*	9
338.1833	A	1	338.4931	A	1	338.7219	A	9
338.1835	A	1	338.4933	A	1	338.12001	*	1
338.2201	*	9	338.4972	*	1	338.12001a	R	1
338.2201a	*	9	338.4973	R	1	338.12003	R	1
338.2202	*	9	338.4976	*	1	338.12004	R	1
338.2202a	A	9	338.4978	*	1	338.12005	R	1
338.2202b	A	9	338.4982	*	1	338.12006	R	1
338.2203	R	9	338.4991	A	1	338.12008	R	1
338.2204	R	9	338.4993	A	1	338.12008a	R	1
338.2205	*	9	338.5101	*	1	338.12008b	R	1
338.2206	*	9	338.5102	*	1	338.12010	R	1
338.2207	*	9	338.5115	*	1	338.12011	R	1
338.2923	*	1	338.5116	*	1	338.12011a	R	1
338.2925	*	1	338.5210	*	1	338.12011b	R	1
338.2931	*	1	338.5215	*	1	338.12014	R	1
338.2933	*	1	338.5216	R	1	338.12015	R	1
338.2935	*	1	338.5217	R	1	338.12021	A	1

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2019 MR Issue	R Number	Action	2019 MR Issue	R Number	Action	2019 MR Issue
338.12031	A	1	338.17135	A	14	380.111	*	4
338.12032	A	1	338.17136	A	14	380.111b	*	4
338.12033	A	1	338.17137	A	14	380.112	*	4
338.12034	A	1	338.17138	A	14	380.116	*	4
338.12035	A	1	338.17141	A	14	380.121	*	4
338.12036	A	1	339.14001	*	9	380.124	*	4
338.12037	A	1	339.14002	R	9	390.1101	*	4
338.12041	A	1	339.14005	*	9	390.1103	*	4
338.12042	A	1	339.14007	*	9	390.1105	*	4
338.12051	A	1	339.14008	*	9	390.1111	*	4
338.12052	A	1	339.14009	*	9	390.1115	*	4
338.12053	A	1	339.14011	*	9	390.1117	*	4
338.12054	A	1	339.14012	A	9	390.1118	*	4
338.13001	*	1	339.14013	A	9	390.1121	*	4
338.13002	*	1	339.14015	R	9	390.1122a	*	4
338.13003	R	1	339.14020	*	9	390.1123	*	4
338.13004	A	1	339.14020a	*	9	390.1125	*	4
338.13005	*	1	339.14022	A	9	390.1129	*	4
338.13010	*	1	339.14023	R	9	390.1129b	*	4
338.13015	*	1	339.14024	A	9	390.1130	*	4
338.13020	*	1	339.14024a	A	9	390.1132	R	4
338.13025	*	1	339.14025	R	9	390.1133	*	4
338.13030	*	1	339.14026	A	9	390.1135	*	4
338.13035	*	1	339.14026a	A	9	390.1137	*	4
338.13040	R	1	339.14027	R	9	390.1138	*	4
338.13045	R	1	339.14029	*	9	390.1141	*	4
338.17101	A	14	339.14030	R	9	390.1142	*	4
338.17111	A	14	339.14031	R	9	390.1143	*	4
338.17113	A	14	339.14032	A	9	390.1145	*	4
338.17115	A	14	339.14033	R	9	390.1151	*	4
338.17121	A	14	339.14035	R	9	390.1152	*	4
338.17122	A	14	380.101	*	4	390.1153	*	4
338.17123	A	14	380.102	*	4	390.1163	*	4
338.17125	A	14	380.103	*	4	390.1164	R	4
338.17127	A	14	380.104	*	4	390.1164a	*	4
338.17131	A	14	380.105	*	4	390.1165	*	4
338.17132	A	14	380.106	*	4	390.1166	R	4
338.17133	A	14	380.107	*	4	390.1167	*	4
338.17134	A	14	380.109	*	4	390.1201	*	4

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)



R Number	Action	2019 MR Issue	R Number	Action	2019 MR Issue	R Number	Action	2019 MR Issue
390.1204	*	4	408.12633	*	14	408.30822	R	1
390.1301	*	4	408.12638	*	14	408.30823	*	1
390.1302	*	4	408.12639	*	14	408.30824	R	1
390.1303	*	4	408.12642	*	14	408.30826	*	1
390.1303a	*	4	408.14219	*	11	408.30827	*	1
390.1304	*	4	408.14433	*	11	408.30828	*	1
390.1305	*	4	408.14436	*	11	408.30829	R	1
390.1306	*	4	408.14465	*	11	408.30834	R	1
390.1307	*	4	408.14493	*	11	408.30835	R	1
390.1308	*	4	408.15344	*	12	408.30867	R	1
390.1309	*	4	408.15355	*	12	408.30868	R	1
390.1310	*	4	408.15362	*	12	408.30869	R	1
390.1312	*	4	408.15718	*	11	408.30870	R	1
408.701	*	8	408.16202	*	11	408.30871	*	1
408.706	*	8	408.16223	*	11	408.41102a	*	14
408.777	*	8	408.16237	*	11	408.41124	*	14
408.778	*	8	408.17405	*	11	408.41140	*	14
408.785	*	8	408.17426	*	11	408.43001	*	12
408.10606	*	11	408.18101a	*	11	408.43006	*	12
408.10632	*	11	408.18111	*	11	432.1101	*	9
408.10641	*	11	408.18114	*	11	432.1102	*	9
408.10677	*	11	408.18116	*	11	432.1103	*	9
408.10695	*	11	408.18125	*	11	432.1104	*	9
408.10696	*	11	408.30801	*	1	432.1105	*	9
408.10702	*	11	408.30805	R	1	432.1106	*	9
408.10711	*	11	408.30806	R	1	432.1107	*	9
408.10712	*	11	408.30807	*	1	432.1108	*	9
408.10713	*	11	408.30808	*	1	432.1204	*	9
408.10727	*	11	408.30809	R	1	432.1210	*	9
408.11402	*	11	408.30810	*	1	432.1212	*	9
408.11403	*	11	408.30811	*	1	432.1214	*	9
408.11421	*	11	408.30812	R	1	432.1215	*	9
408.11425	*	11	408.30813	R	1	432.1216	*	9
408.11721	*	11	408.30814	R	1	432.1220	*	9
408.11732	*	11	408.30817	R	1	432.1221	*	9
408.12002	*	11	408.30818	*	1	432.1224	*	9
408.12016	*	11	408.30819	*	1	432.1302	*	9
408.12616	*	14	408.30820	*	1	432.1303	*	9
408.12631	*	14	408.30821	R	1	432.1304	*	9

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2019 MR Issue	R Number	Action	2019 MR Issue	R Number	Action	2019 MR Issue
432.1306	*	9	432.1715	*	9	432.11012	*	9
432.1307	*	9	432.1803	*	9	432.11013	*	9
432.1308	*	9	432.1804	*	9	432.11014	*	9
432.1312	*	9	432.1811	*	9	432.11015	*	9
432.1316	*	9	432.1812	*	9	432.11016	*	9
432.1321	*	9	432.1813	*	9	432.11017	R	9
432.1322	*	9	432.1816	*	9	432.11018	*	9
432.1323	*	9	432.1817	*	9	432.11202	*	9
432.1324	*	9	432.1819	*	9	432.11203	*	9
432.1325	*	9	432.1820	*	9	432.11208	*	9
432.1326	*	9	432.1821	*	9	432.11304	*	9
432.1327	*	9	432.1822	*	9	432.11308	*	9
432.1330	*	9	432.1823	*	9	432.11309	*	9
432.1331	*	9	432.1824	R	9	432.11401	*	9
432.1332	*	9	432.1825	R	9	432.11402	*	9
432.1333	*	9	432.1826	*	9	432.11404	R	9
432.1334	*	9	432.1828	*	9	432.11405	*	9
432.1336	R	9	432.1829	R	9	432.11501	*	9
432.1337	*	9	432.1830	*	9	432.11502	*	9
432.1338	*	9	432.1838	*	9	432.11503	*	9
432.1339	*	9	432.1839	*	9	418.10106	*	1
432.1340	*	9	432.1840	*	9	418.10107	*	1
432.1341	*	9	432.1841	*	9	418.10109	*	1
432.1402	*	9	432.1842	*	9	418.10117	*	1
432.1405	*	9	432.1843	*	9	418.10901	*	1
432.1406	*	9	432.1903	*	9	418.10902	*	1
432.1501	*	9	432.1904	*	9	418.10904	*	1
432.1504	*	9	432.1905	*	9	418.10913	*	1
432.1506	R	9	432.11001	*	9	418.101002	*	1
432.1508	*	9	432.11002	*	9	418.101004	*	1
432.1509	*	9	432.11003	*	9	451.1.1	A	1
432.1511	*	9	432.11004	*	9	451.1.2	A	1
432.1701	*	9	432.11005	*	9	451.2.1	A	1
432.1702	*	9	432.11006	*	9	451.2.2	A	1
432.1704	R	9	432.11007	*	9	451.2.3	A	1
432.1706	*	9	432.11008	*	9	451.2.4	A	1
432.1707	*	9	432.11009	*	9	451.2.5	A	1
432.1712	*	9	432.11010	R	9	451.3.1	A	1
432.1713	R	9	432.11011	*	9	451.3.2	A	1

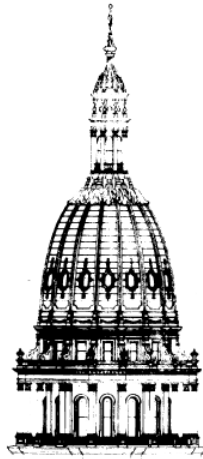
(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2019 MR Issue	R Number	Action	2019 MR Issue	R Number	Action	2019 MR Issue
451.3.3	A	1	451.602.6	R	1	460.3606	*	1
451.3.4	A	1	451.602.7	R	1	460.3608	*	1
451.3.5	A	1	451.602.8	R	1	460.3613	*	1
451.3.6	A	1	451.603.1	R	1	460.3615	*	1
451.3.7	A	1	451.603.2	R	1	460.3703	*	1
451.4.1	A	1	451.603.5	R	1	460.10101	A	1
451.4.2	A	1	451.604.1	R	1	460.10102	A	1
451.4.3	A	1	451.604.2	R	1	460.10103	A	1
451.4.4	A	1	451.604.3	R	1	460.10104	A	1
451.4.5	A	1	451.704.1	R	1	460.10105	A	1
451.4.6	A	1	451.704.2	R	1	460.10106	A	1
451.4.7	A	1	451.705.4	R	1	460.10107	A	1
451.4.8	A	1	451.705.6	R	1	460.10108	A	1
451.4.9	A	1	451.706.1	R	1	460.10109	A	1
451.4.10	A	1	451.706.2	R	1	460.10110	A	1
451.4.11	A	1	451.706.4	R	1	460.10111	A	1
451.4.12	A	1	451.706.8	R	1	460.10112	A	1
451.4.13	A	1	451.706.24	R	1	460.10113	A	1
451.4.14	A	1	451.706.26	R	1	460.20201	*	1
451.4.15	A	1	451.801.3	R	1	460.20304	*	1
451.4.16	A	1	451.801.4	R	1	460.20306	*	1
451.4.17	A	1	451.802.2	R	1	460.20308	*	1
451.4.18	A	1	451.803.3	R	1	460.20310	*	1
451.4.19	A	1	451.803.5	R	1	460.20312	*	1
451.4.20	A	1	451.803.8	R	1	460.20313	*	1
451.4.21	A	1	451.803.10	R	1	460.20314	*	1
451.4.22	A	1	451.803.11	R	1	460.20316	*	1
451.4.23	A	1	460.137	*	1	460.20317	R	1
451.4.24	A	1	460.155	*	1	460.20319	*	1
451.4.25	A	1	460.3101	*	1	460.20326	*	1
451.4.26	A	1	460.3102	*	1	460.20331	*	1
451.4.27	A	1	460.3204	*	1	460.20332	*	1
451.4.28	A	1	460.3205	A	1	460.20335	A	1
451.6.1	A	1	460.3303	*	1	460.20338	A	1
451.6.2	A	1	460.3304	*	1	460.20407	*	1
451.602.1	R	1	460.3308	*	1	460.20409	*	1
451.602.2	R	1	460.3309	*	1	460.20501	*	1
451.602.3	R	1	460.3409	*	1	460.20502	*	1
451.602.4	R	1	460.3605	*	1	460.20503	*	1

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2019 MR Issue	R Number	Action	2019 MR Issue
460.20504	*	1	500.1124	*	1
460.20601	*	1	500.1125	*	1
460.20602	*	1	500.1127	*	1
460.20603	*	1	500.1128	*	1
460.20604	*	1	500.1129	R	1
460.20605	*	1	500.1130	A	1
460.20606	*	1	500.1131	A	1
474.1	A	1	500.1132	A	1
474.2	A	1	500.1133	A	1
474.3	A	1	500.1241	R	12
474.4	A	1	500.1291	R	12
474.5	A	1			
474.6	A	1			
474.7	A	1			
484.71	*	1			
484.72	*	1			
484.73	*	1			
484.74	*	1			
484.75	*	1			
484.81	*	1			
484.82	*	1			
484.83	*	1			
484.84	*	1			
484.85	*	1			
484.86	*	1			
484.87	*	1			
484.88	*	1			
484.89	*	1			
484.90	*	1			
484.901	R	12			
484.902	R	12			
484.903	R	12			
484.904	R	12			
484.905	R	12			
484.906	R	12			
460.3308	*	13			
500.1121	R	1			
500.1122	*	1			
500.1123	*	1			

(\* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)



---

**CUMULATIVE  
INDEX**

---

**A**

**AGRICULTURE AND RURAL DEVELOPMENT, DEPARTMENT OF**  
Emergency Rule – Industrial Hemp Testing (2019-15)

**ATTORNEY GENERAL, DEPARTMENT OF**  
**Opinions**

Constitutionality of State Housing Development Authority’s Equal Employment Opportunity policy  
OAG Opinion No. 7308 (2019-1)

Constitutionality of 2018 PA 359  
OAG Opinion No. 7309 (2019-6)

**E**

**EXECUTIVE ORDER**

No. 1 -2019 (2019-2)  
No. 2 -2019 (2019-2)  
No. 3 -2019 (2019-2)  
No. 4 -2019 (2019-2)  
No. 5 -2019 (2019-2)  
No. 6 -2019 (2019-4)  
No. 7 -2019 (2019-4)  
No. 8 -2019 (2019-6)  
No. 9 -2019 (2019-7)  
No. 10 -2019 (2019-8)  
No. 11 -2019 (2019-9)  
No. 12 -2019 (2019-10)  
No. 13 -2019 (2019-11)  
No. 14 -2019 (2019-11)  
No. 15 -2019 (2019-11)  
No. 16 -2019 (2019-12)

No. 17 -2019 (2019-13)

No. 18 -2019 (2019-16)

**EDUCATION, DEPARTMENT OF**

Certification and Licensure of School Counselors (2019-4)

School Administrator Certification Code (2019-4)

School Psychologist Certificate Code (2019-4)

Teacher Certification Code (2019-4)

Teacher Tenure General Rules (2019-13\*)

**ENVIRONMENT, GREAT LAKES AND ENERGY, DEPARTMENT OF**

**Correction:**

Part 2. Air Use Approval (2019-1)

Part 9. Emission Limitations and Prohibitions—Miscellaneous (2019-1)

Part 18. Prevention of Significant Deterioration of Air Quality (2019-1)

Part 19. New Source Review For Major Sources Impacting Nonattainment Areas (2019-1)

**PROPOSED GUIDELINE**

Cleanup and Disposal of Sites Contaminated with TENORM (2019-10\*)

Hazardous Waste Management (2019-17\*)

Oil and Gas Operations (2019-8\*)

Part 2. Air Use Approval (2019-1)

Part 4. Emissions Limitations and Prohibitions - Sulfur-Bearing Compounds (2019-10\*)

Part 9. Emission Limitations and Prohibitions—Miscellaneous (2019-1)

Part 18. Prevention of Significant Deterioration of Air Quality (2019-1)

Part 19. New Source Review For Major Sources Impacting Nonattainment Areas (2019-1)

**H**

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

**Certificate of Need**

Cardiac Catheterization Services (2019-1)

Megavoltage Radiation Therapy (MRT) Services/Units (2019-17)

Open Heart Surgery (OHS) Services (2019-1) (2019-18)

Psychiatric beds and Services (2019-10)

**Correction**

Family Independence Program (2019-17)

**Emergency Rule**

Protection of Youth from Nicotine Product Addiction (2019-18)

Blood Lead Analysis Reporting (2019-15\*)

Family Independence Program (2019-17)

Reporting of Poisonings Due to Use of Prescription and Illicit (2019-3\*)

**I**

**INSURANCE AND FINANCE, DEPARTMENT OF**

Credit for Reinsurance (2019-1)

Mortality Table For Individual Annuity Valuation (2019-12)  
Mortality Table For Group Annuity Valuation (2019-12)  
Pre-licensure Education Requirements (2019-14)

**L**

**LABOR AND ECONOMIC OPPORTUNITY, DEPARTMENT OF**

Part 11. Recording and Reporting of Occupational Injuries and Illnesses (2019-18)

**LICENSING AND REGULATORY AFFAIRS, DEPARTMENT OF**

**Correction:**

Board of Nursing Home Administrators - General Rules (2019-12)  
Michigan Gas Safety Standards (2019-1)  
Part 25. Manlifts (2019-10)  
Real Estate Brokers and Salespersons (2019-2) (2019-13)  
Survey and Remonumentation Commission - General Rules (2019-2)

**Emergency Rule**

Emergency Rule – Adult Use Marihuana Establishments (2019-13)

**Repeal:**

Repeal PA 30 of 2019 (2019-12)

Accountancy– General Rules (2019-1)  
Audiology - General Rules (2019-1)  
Barbers (2019-5\*)  
Basic Local Exchange Service Customer Migration (2019-1)  
Behavior Analysts – General Rules (2019-1)  
Board of Acupuncture - General Rules (2019-1)  
Architects - General Rules (2019-17\*)  
Board of Athletic (2019-5\*)  
Board of Counseling - General Rules (2019-17\*)  
Professional Engineers - General Rules (2019-17\*)  
Board of Respiratory Care (2019-10)  
Board of Chiropractic - General Rules (2019-1)  
Board of Massage Therapy – General Rules (2019-1)  
Board of Midwifery (2019-14)  
Board of Nursing – General Rules (2019-8\*)  
Board of Nursing Home Administrators - General Rules (2019-10)  
Board of Occupational Therapists - General Rules (2019-17\*)  
Board of Pharmacy - Continuing Education (2015-15\*) (2019-17\*)  
Board of Pharmacy - Controlled Substances (2019-1) (2019-12\*)  
Board of Pharmacy – General Rules (2019-15\*) (2019-17\*)  
Board of Physical Therapy - General Rules (2019-1\*)  
Board of Podiatry – General Rules (2019-17)  
Board of Psychology - General Rules (2019-5\*)  
Board of Respiratory Care (2019-1\*)  
Board of Social Work - General Rules (2019-1)

Board of Veterinary Medicine - General Rules (2019-1)  
Code of Conduct (2019-1)  
Complaints (2019-8\*)  
Consumer Standards and Billing Practices for Electric and Gas Residential Service (2019-1)  
Construction Code – Part 8. Electrical Code Rules (2019-1)  
Freestanding Surgical Outpatient Facilities (2019-8\*)  
Hospice Licensure Rules (2019-8\*)  
Licensing Health Facilities or Agencies (2019-8\*)  
Licensing Rules for Family and Group Child Care Homes (2019-12\*)  
Marriage and Family Therapy – General Rules (2019-10)  
Michigan Gas Safety Standards (2019-1)  
Michigan Medical Marihuana (2019-8\*)  
Minimum Standards for Hospitals (2019-8\*)  
Nursing Homes and Nursing Care Facilities (2019-8\*)  
Part 30. Telecommunications (2019-5\*)  
Part 6. Fire Exits (2019-11)  
Part 7. Guards for Power Transmissions (2019-11)  
Part 10 Cranes and Derricks (2019-17)  
Part 11. Fixed and Portable Ladders (2019-14)  
Part 11. Recording and Reporting of Occupational Injuries and Illnesses (201-10\*)  
Part 14. Conveyors (2019-11)  
Part 14. Tunnels, Shafts, Caissons and Cofferdams (2019-6\*)  
Part 17. Refuse Packer Units (2019-11)  
Part 20. Underhung Cranes and Monorail Systems (2019-11)  
Part 26. Metalworking Machinery (2019-14)  
Part 30. Telecommunications (2019-12)  
Part 42. Forging (2019-11)  
Part 44. Foundries (2019-11)  
Part 53. Tree Trimming and Removal (2019-12)  
Part 57. Oil and Gas Drilling and Servicing Operations (2019-11)  
Part 62. Plastic Molding (2019-11)  
Part 74 Fire Fighting (2019-11)  
Part 81. Baking Operations (2019-11)  
Part 301. Air Contaminants for General Industry (2019-17)  
Part 590 Silica in General Industry (2019-17)  
Part 601. Air Contaminants for Construction (2019-17)  
Part 620. Ventilation Control for Construction (2019-17)  
Public Health Code – General Rules (2019-1)  
Public Inspection of License Records (2019-8\*)  
Residential Builders and Maintenance and Alteration Contractors (2019-1)  
Securities (2019-1)  
Survey and Remonumentation Commission - General Rules (2019-1)  
Task Force on Physician's Assistants – General Rules (2019-10)  
Technical Standards for Electric Service (2019-1) (2019-13)  
Unbundled Network Element and Local Interconnection Services (2019-1)  
Veterinary Technician Licensure (2019-1) (2019-1)  
Wage and Hour Division General Rules (2019-8)  
Workers' Compensation Health Care Services Rules (2019-1)



**M**

**MILITARY AND VETERAN AFFAIRS, DEPARTMENT OF**  
State Homes for Veterans (2019-1)

**N**

**NATURAL RESOURCES, DEPARTMENT OF**  
Forest and Mineral Resource Development Fund Program (2019-5)  
Nonmetallic Minerals Leased on State Lands (2019-1)

**T**

**TRANSPORTATION, DEPARTMENT OF**  
Motor Bus Transportation Rules (2019-1)

**TREASURY, DEPARTMENT OF**  
**Correction:**

Taxpayers Bill of Rights (2019-1)

General Sales and Use Tax Rules (2019-16\*)

Michigan Gaming Control Board - Administrative Rules - Casino Gaming (Parts 1-16) (2019-10)

Motor Fuel Tax Rules (2019-4)

Taxation of Adult-Use Marihuana Rules (2019-16\*)

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**ADMINISTRATIVE RULES  
ENROLLED SENATE AND HOUSE BILLS  
SIGNED INTO LAW OR VETOED  
(2019 SESSION)**

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*Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”*

*Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\* \* \*

*(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.*

*(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”*